

that identifies such members as serving in a weather specialty.

(i) DEFINITIONS.—In this section:

(1) The term “aviation service” means participation in aerial flight performed, under regulations prescribed by the Secretary concerned, by an eligible career enlisted flyer.

(2) The term “operational flying duty” means flying performed under competent orders while serving in assignments, including an assignment as a dropsonde system operator, in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying duty performed by members in training that leads to the award of an enlisted aviation rating or military occupational specialty designated as a career enlisted flyer rating or specialty by the Secretary concerned.

(Added Pub. L. 106-65, div. A, title VI, § 628(a)(1), Oct. 5, 1999, 113 Stat. 657.)

EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, § 628(b), Oct. 5, 1999, 113 Stat. 659, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.”

§ 321. Special pay: judge advocate continuation pay

(a) ELIGIBLE JUDGE ADVOCATE DEFINED.—In this section, the term “eligible judge advocate” means an officer of the armed forces on full-time active duty who—

- (1) is qualified and serving as a judge advocate, as defined in section 801 of title 10; and
- (2) has completed—

(A) the active duty service obligation incurred through the officer’s original commissioning program; or

(B) in the case of an officer detailed under section 2004 of title 10 or section 470 of title 14, the active duty service obligation incurred as part of that detail.

(b) SPECIAL PAY AUTHORIZED.—An eligible judge advocate who executes a written agreement to remain on active duty for a period of obligated service specified in the agreement may, upon the acceptance of the agreement by the Secretary concerned, be paid continuation pay under this section. The total amount paid to an officer under one or more agreements under this section may not exceed \$60,000.

(c) PRORATION.—The term of an agreement under subsection (b) and the amount payable under the agreement may be prorated.

(d) PAYMENT METHODS.—Upon acceptance of an agreement under subsection (b) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed. The Secretary shall prepare an implementation plan specifying the amount of each installment payment under the agreement and the times for payment of the installments.

(e) ADDITIONAL PAY.—Any amount paid to an officer under this section is in addition to any other pay and allowances to which the officer is entitled.

(f) REPAYMENT.—(1) If an officer who has entered into a written agreement under subsection (b) and has received all or part of the amount payable under the agreement fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, to the extent that the Secretary determines conditions and circumstances warrant, any or all sums paid under this section.

(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

(g) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section.

(Added Pub. L. 106-65, div. A, title VI, § 629(a)(1), Oct. 5, 1999, 113 Stat. 659.)

EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, § 629(c), Oct. 5, 1999, 113 Stat. 661, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.”

§ 322. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986

(a) AVAILABILITY OF BONUS.—The Secretary concerned shall pay a bonus under this section to an eligible career bonus member if the member—

- (1) elects to receive the bonus under this section; and
- (2) executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty until the member has completed 20 years of active-duty service creditable under section 1405 of title 10.

(b) ELIGIBLE CAREER BONUS MEMBER DEFINED.—In this section, the term “eligible career bonus member” means a member of a uniformed service serving on active duty who—

- (1) first became a member on or after August 1, 1986; and
- (2) has completed 15 years of active duty in the uniformed services (or has received notification under subsection (e) that the member is about to complete that duty).

(c) ELECTION METHOD.—An election under subsection (a)(1) shall be made in such form and within such period as the Secretary concerned may prescribe. An election under that subsection is irrevocable.

(d) AMOUNT OF BONUS; PAYMENT.—(1) A bonus under this section shall be equal to \$30,000.

(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

- (A) A single lump sum of \$30,000.
- (B) Two installments of \$15,000 each.
- (C) Three installments of \$10,000 each.
- (D) Four installments of \$7,500 each.

(E) Five installments of \$6,000 each.

(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

(A) The annual anniversary date of the payment of the first installment.

(B) January 15 of each succeeding calendar year.

(4) The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments, shall be paid to an eligible career bonus member not later than the first month that begins on or after the date that is 60 days after the date on which the Secretary concerned receives from the member the election required under subsection (a)(1) and the written agreement required under subsection (a)(2), if applicable.

(e) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary concerned shall transmit to each member who meets the definition of eligible career bonus member a written notification of the opportunity of the member to elect to receive a bonus under this section. The Secretary shall provide the notification not later than 180 days before the date on which the member will complete 15 years of active duty.

(2) The notification shall include the following:

(A) The procedures for electing to receive the bonus.

(B) An explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay that the member may become eligible to receive.

(f) REPAYMENT OF BONUS.—(1) If a person paid a bonus under this section fails to complete a period of active duty beginning on the date on which the election of the person under subsection (a)(1) is received and ending on the date on which the person completes 20 years of active-duty service as described in subsection (a)(2), the person shall refund to the United States the amount that bears the same ratio to the amount of the bonus payment as the uncompleted part of that period of active-duty service bears to the total period of such service.

(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under the agreement or this subsection.

(Added Pub. L. 106-65, div. A, title VI, §642(a), Oct. 5, 1999, 113 Stat. 662; amended Pub. L.

107-107, div. A, title VI, §620(a), Dec. 28, 2001, 115 Stat. 1138.)

AMENDMENTS

2001—Subsec. (d)(1). Pub. L. 107-107, §620(a)(1), substituted “equal to \$30,000” for “paid in a single lump sum of \$30,000”.

Subsec. (d)(2) to (4). Pub. L. 107-107, §620(a)(2), (3), added pars. (2) and (3), redesignated former par. (2) as (4), and substituted therein “The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments,” for “The bonus”.

EFFECTIVE DATE

Section effective Oct. 1, 1999, see section 644 of Pub. L. 106-65, set out as an Effective Date of 1999 Amendment note under section 1401a of Title 10, Armed Forces.

APPLICATION TO EXISTING AGREEMENTS

Pub. L. 107-107, div. A, title VI, §620(b), Dec. 28, 2001, 115 Stat. 1139, provided that: “The Secretary concerned (as defined in section 101(5) of title 37, United States Code) shall extend to each member of the uniformed services who has executed the written agreement required by subsection (a)(2) of section 322 of such title before the date of the enactment of this Act [Dec. 28, 2001], but who has not received the lump sum payment by that date, an opportunity to make the election authorized by subsection (d) of such section, as amended by this section.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1401a, 1409, 1410.

§ 323. Special pay: retention incentives for members qualified in a critical military skill

(a) RETENTION BONUS AUTHORIZED.—An officer or enlisted member of the armed forces who is serving on active duty and is qualified in a designated critical military skill may be paid a retention bonus as provided in this section if—

(1) in the case of an officer, the member executes a written agreement to remain on active duty for at least 1 year; or

(2) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment for a period of at least 1 year.

(b) DESIGNATION OF CRITICAL SKILLS.—(1) A designated critical military skill referred to in subsection (a) is a military skill designated as critical by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall notify Congress, in advance, of each military skill to be designated by the Secretary as critical for purposes of this section. The notice shall be submitted at least 90 days before any bonus with regard to that critical skill is offered under subsection (a) and shall include a discussion of the necessity for the bonus, the amount and method of payment of the bonus, and the retention results that the bonus is expected to achieve.

(c) PAYMENT METHODS.—A bonus under this section may be paid in a single lump sum or in periodic installments.